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11 Attorneys for Plaintiff
12 WIND OF TRADE LLC

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15 UNITED STATES DISTRICT COURT
16
17 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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19
20 WIND OF TRADE LLC, a Nevada limited
21 liability company,

22 Plaintiff,
23 v.

24
25 MOSTAG INTERNATIONAL, INC., a
26 Pennsylvania corporation,

27 Defendant.

28 Case No. CV 07 6280MMC

**CONSENT JUDGMENT AND
PERMANENT INJUNCTION**

Plaintiff Wind of Trade LLC ("Wind of Trade") and defendant Mostag International, Inc. ("Mostag"), stipulate to entry of this judgment that fully adjudicates all claims between them in this action.

IT IS HEREBY ORDERED, ADJUDGED and DECREED that:

1. This Court has jurisdiction over the subject matter of this action and the Parties.
2. Wind of Trade is the owner of the 'Ove' Glove trademark evidenced by U.S. Trademark Registration 2,683,417 for oven mitts, a copy of which is attached as Exhibit A. Such registration is valid and in full force (hereafter the "Registered Mark").
3. Wind of Trade is the owner of certain design marks associated with its products, which are further evidenced by pending U.S. Trademark Application Serial Nos. 77/009,941 and 77/262,146,

1 copies of which are attached as Exhibit B (hereafter the "Design Marks"). The Design Marks are
 2 valid, enforceable trademarks.

3 4. Multiple Mostag products have advertised, promoted, and sold using the Plaintiff's
 4 Registered Mark. Further, Mostag adopted a design for an oven mitt product that is identical or
 5 virtually identical to Wind of Trade's Design Marks.

6 5. Defendant has infringed Wind of Trade's rights in and to the Registered Trademark and
 7 Design Marks through violation of 15 U.S.C. §§ 1114 and 1125(a) and has violated Cal. Bus. & Prof.
 8 Code §§ 17200 *et seq.* and Common Law Unfair Competition.

9 6. Defendant is without right or authority to threaten, complain of, challenge, maintain suit,
 10 or interfere in any manner with Plaintiff Wind of Trade's lawful use and right to claim ownership of
 11 the Registered Mark and Design Marks.

12 7. The Plaintiff has agreed to conclude this matter as to Defendant on the terms set forth
 13 herein.

14 8. Defendant now stipulates and agrees that judgment may be entered in Plaintiff's favor for
 15 each cause of action in the action. Defendant shall permanently cease and desist from participating in
 16 any manner in the conduct alleged in the Complaint.

17 9. Mostag, its owners, shareholders, principals, partners, officers, directors, employees,
 18 subsidiaries, licensors, agents, executors, administrators, successors, heirs, servants and assigns, and
 19 all those acting in concert or participation with it (the "Enjoined Parties"), are permanently enjoined
 20 and restrained from the date hereof from using a mark, design, or any other logotype, trademark or
 21 designation which is likely to be confused with the Wind of Trade's Registered Trademark or Design
 22 Marks. This injunction includes, but is not limited to the product shown below.



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 27 10. Defendant Mostag shall not manufacture, produce, distribute, import, accept for
 28 consignment, ship, circulate, sell, offer for sale, advertise, promote or display any product bearing any

1 simulation, reproduction, counterfeit, copy or colorable imitation of the Registered Trademark and
 2 Design Marks and/or any other trademarks or trade dress so similar as to be likely to cause confusion,
 3 to cause mistake or to deceive.

4 11. Mostag certifies that, under penalty of perjury, prior to its entry into this Consent
 5 Judgment and Permanent Injunction, it:

- 6 a. made and delivered to Plaintiff an accurate and complete written inventory, as of
 7 January 25, 2008, of all things, tangible or electronic, bearing the Registered Mark
 8 and/or Design Marks, or terms or marks confusingly similar thereto;
- 9 b. delivered to Plaintiff a complete accounting, as of January 25, 2008, of all heat
 10 resistant gloves identical or similar to the glove pictured in the Complaint; such
 11 inventory shall include all receipts of such gloves as well as disposition, whether by
 12 sale or other transfer, and the number remaining in inventory;
- 13 c. disclosed and delivered to Plaintiff all tangible and electronic documents relating to
 14 the aforementioned accounting including, but not limited to, all documents related
 15 to Defendant's acquisition or disposition of the gloves; and
- 16 d. delivered to Plaintiff all heat resistant gloves identical or similar to the glove
 17 pictured in the Complaint provided, however, that counsel for Defendant may retain
 18 two (2) such gloves for his files.

19 12. Each party shall bear its own costs and attorneys' fees in connection with this action.

20 13. In view of Plaintiff's concession not to seek fees and costs in this action or the available
 21 statutory damages, Defendant agrees that it will strictly adhere to this Consent Judgment and
 22 Permanent Injunction. Defendant further agrees that upon demonstration to the Court of Defendant's
 23 violation this Consent Judgment and Permanent Injunction, which may be shown by a preponderance
 24 of evidence standard, Defendant and its principal William Pan, shall be liable to Plaintiff for:

- 25 a. Wind of Trade's fees and costs associated with bringing this action, including the
 26 pre-filing investigation and resolution efforts;
- 27 b. Wind of Trade's fees and costs associated with investigating the violation(s) of this
 28 Consent Judgment and Permanent Injunction and bringing the contempt action;

- c. the full measure of statutory damages available to Plaintiff for Defendant's conduct giving rise to the action as well as subsequent contumacious conduct, which shall not be less than \$15 for each glove acquired by Defendant, excepting those delivered to Plaintiff under Paragraph 11(d) herein; and
- d. such further equitable relief the Court may grant to give full effect to this Consent Judgment and Permanent Injunction.

All payments shall be due within fourteen (14) days of the Court's entry of its decision on Plaintiff's motion.

14. Defendant's incomplete or inaccurate disclosure under Paragraph 11 shall be deemed a violation of the Consent Judgment. Should the Court conclude, however, that the defect in Defendant's disclosure was both immaterial and unavoidable, with Defendant bearing the burden on both elements, then Plaintiff shall nevertheless be awarded its actual damages and the full measure of its fees and costs to enforce the Consent Judgment and Permanent Injunction.

15. It is the intention of the parties in executing this Consent Judgment that this instrument shall be effective as a full and final accord and satisfaction and release of the instant action.

16. The obligations imposed hereby, each of the parties hereto, for itself, and its owners, shareholders, principals, partners, officers, directors, employees, subsidiaries, licensors, agents, executors, administrators, successors, heirs, servants and assigns, forever releases and discharges the other party hereto, and its respective owners, shareholders, principals, partners, officers, directors, employees, subsidiaries, licensors, agents, executors, administrators, successors, heirs, servants and assigns from any and all claims, demands, debts, liabilities, accounts, obligations, costs, expenses, liens, actions, causes of action (at law, in equity, or otherwise), rights to subrogation, rights to contribution, and remedies of any nature whatsoever, known or unknown, asserted or not, arising out of the facts, circumstances, and transactions set forth in the Complaint filed herein.

17. Each of the parties hereto represents and warrants that its execution, delivery and performance of the obligations, terms and conditions herein has been duly authorized by all necessary and other corporate or equivalent action, and is valid and binding upon such party.

1 18. The parties hereto approve and agree to all the obligations, terms, provisions and findings
 2 herein, which shall be final and non-appealable.

3 19. This Agreement may be executed in identical counterparts, all of which together shall
 4 constitute one and the same instrument.

5 20. Except as is inconsistent with the foregoing, this action, including all claims and
 6 counterclaims, and including without limitation all claims presently known or unknown arising from
 7 the individual allegations made herein, is hereby dismissed in its entirety with prejudice, against all
 8 parties, and each party shall bear its own costs and attorneys' fees.

9 21. The Court shall retain jurisdiction over this matter for the purpose of enforcing this
 10 Consent Judgment and Permanent Injunction.

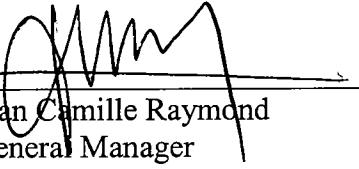
11 Plaintiff Wind of Trade and Defendant Mostag hereby stipulate that this Consent Judgment
 12 and Permanent Injunction may be entered as a Final Judgment in this action.

13 **IT IS SO STIPULATED:**

14 Dated: Feb 22, 2008.

15 Dated: Feb. 11, 2008, 2008.

16 WIND OF TRADE LLC

17 By: 
 18 Name: Jean Camille Raymond
 19 Title: General Manager

20 MOSTAG INTERNATIONAL, INC.

21 By: 
 22 Name: William Pan, Individually and for Mostag
 23 International, Inc.
 24 Title: Manager

Dated: 2/27/08, 2008.

Dated: 2/11, 2008.

TOWNSEND AND TOWNSEND AND
CREW LLP

LAW OFFICES OF MARK D. SCHAFFER

By: Marc M. Gorinik
Marc M. Gorinik
Mary L. Shapiro
Two Embarcadero Center, 8th Floor
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Telephone: (415) 576-0200
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By: Mark D. Shaeffer Pro Hac Vice
Mark D. Shaeffer, Esq.
1429 Walnut Street
Philadelphia, PA 19102-3209
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Facsimile: (215) 561-4782

*Attorneys for Plaintiff
Wind of Trade LLC*

*Attorneys for Defendant
Mostag International, Inc.*

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: February 29 , 2008

Maxine M. Chesney
HON. MAXINE M. CHESNEY
Judge, United States District Court

61242114 v2

Int. Cl. 24

Prior U.S. Cls.: 42 and 50

United States Patent and Trademark Office

Reg. No. 2,683,417

Registered Feb. 4, 2003

**TRADEMARK
PRINCIPAL REGISTER**

'OVE' GLOVE

JOSEPH ENTERPRISES, INC. (CALIFORNIA
CORPORATION)
425 CALIFORNIA STREET
SUITE 1300
SAN FRANCISCO, CA 94104

FOR: OVEN MITT, IN CLASS 24 (U.S. CLS. 42 AND
50).

FIRST USE 9-0-2001; IN COMMERCE 12-0-2001.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "GLOVE", APART FROM THE
MARK AS SHOWN.

SER. NO. 76-401,053, FILED 4-26-2002.

GENE MACIOL, EXAMINING ATTORNEY

EXHIBIT A

Document Description: Application Mail / Create Date: 28-Sep-2006

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You are currently on page 1 of 3

PTO Form 1478 (Rev 9/2006)
OMB No. 0651-0009 (Exp 09/30/2008)

Trademark/Service Mark Application, Principal Register

Serial Number: 77009941
Filing Date: 09/28/2006

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77009941
MARK INFORMATION	
*MARK	<u>\\TICRS\EXPORT3\IMAGEOUT3\77009941\xml1\AP P0002.JPG</u>
SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	The 'OVE' GLOVE
COLOR MARK	NO
DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of Picture of oven mitt with words.
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	612 x 800
APPLICANT INFORMATION	
*OWNER OF MARK	Wind of Trade LLC
*STREET	3763 Howard Hughes Parkway
INTERNAL ADDRESS	Hughes Center, Suite 170-A
*CITY	Las Vegas
*STATE (Required for U.S. applicants)	Nevada
*COUNTRY	United States
*ZIP/POSTAL CODE	89109

EXHIBIT B

(Required for U.S. applicants only)

LEGAL ENTITY INFORMATION

*TYPE	CORPORATION
*STATE/COUNTRY OF INCORPORATION	Nevada

GOODS AND/OR SERVICES SECTION

INTERNATIONAL CLASS	024
DESCRIPTION	Oven mitt
FILING BASIS	SECTION 1(b)

ATTORNEY INFORMATION

NAME	Mary L. Shapiro
ATTORNEY DOCKET NUMBER	021466-009400US
FIRM NAME	Townsend and Townsend and Crew LLP
STREET	Two Embarcadero Center, 8th Floor
CITY	San Francisco
STATE	California
COUNTRY	United States
ZIP/POSTAL CODE	94111-3834
PHONE	(415) 576-0200
FAX	(415) 576-0300
EMAIL ADDRESS	mls@townsend.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes

CORRESPONDENCE INFORMATION

NAME	Mary L. Shapiro
FIRM NAME	Townsend and Townsend and Crew LLP
STREET	Two Embarcadero Center, 8th Floor
CITY	San Francisco
STATE	California
COUNTRY	United States
ZIP/POSTAL CODE	94111-3834
PHONE	(415) 576-0200

FAX	(415) 576-0300
EMAIL ADDRESS	mls@townsend.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
TOTAL FEE DUE	325
SIGNATURE INFORMATION	
* SIGNATORY FILE	\TICRS\EXPORT3\IMAGEOUT3\770\099 \77009941\xml1\APP0003.JPG
FILING INFORMATION SECTION	
SUBMIT DATE	Thu Sep 28 18:03:12 EDT 2006
TEAS STAMP	USPTO/BAS-66.54.196.226-2 0060928180312883497-77009 941-350132a21afc5981c788e 57b3afa83f57-DA-702-20060 928180019851565

PTO Form 1478 (Rev 9/2006)
OMB No. 0651-0009 (Exp 09/30/2008)

Trademark/Service Mark Application, Principal Register

Serial Number: 77009941
Filing Date: 09/28/2006

To the Commissioner for Trademarks:

MARK: The 'OVE' GLOVE (stylized and/or with design, see mark)

The literal element of the mark consists of The 'OVE' GLOVE. The mark consists of Picture of oven mitt with words.

The applicant, Wind of Trade LLC, a corporation of Nevada, having an address of Hughes Center, Suite 170-A, 3763 Howard Hughes Parkway, Las Vegas, Nevada, United States, 89109, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

International Class 024: Oven mitt

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant hereby appoints Mary L. Shapiro of Townsend and Townsend and Crew LLP, Two Embarcadero Center, 8th Floor, San Francisco, California, United States, 94111-3834 to submit this application on behalf of the applicant. The attorney docket/reference number is 021466-009400US.

Correspondence Information: Mary L. Shapiro

Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
(415) 576-0200(phone)
(415) 576-0300(fax)
mls@townsend.com (authorized)

A fee payment in the amount of \$325 will be submitted with the application, representing payment for 1 class(es).

Signatory's Signature: signatory file

RAM Sale Number: 702
RAM Accounting Date: 09/29/2006

Serial Number: 77009941
Internet Transmission Date: Thu Sep 28 18:03:12 EDT 2006
TEAS Stamp: USPTO/BAS-66.54.196.226-2006092818031288
3497-77009941-350132a21afc5981c788e57b3a
fa83f57-DA-702-20060928180019851565

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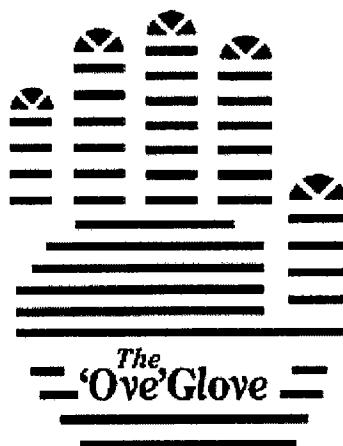
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Document Description: Application Mail / Create Date: 28-Sep-2006

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Document Description: Application Mail / Create Date: 22-Aug-2007

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PTO Form 1478 (Rev 9/2006)
OMB No. 0651-0009 (Exp 09/30/2008)

Trademark/Service Mark Application, Principal Register

Serial Number: 77262146
Filing Date: 08/22/2007

The table below presents the data as entered.

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SERIAL NUMBER	77262146
MARK INFORMATION	
*MARK	<u>\\TICRS2\EXPORT13\772\621\77262146\xml1\APP0002.JPG</u>
SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	The 'OVE' GLOVE
COLOR MARK	NO
DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of a picture of a glove using vertical lines to indicate fingernail location, horizontal lines to indicate finger lenght and palm width and blank space near the bottom containing the words "The 'Ove' Glove.
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	612 x 800
APPLICANT INFORMATION	
*OWNER OF MARK	Wind of Trade LLC
*STREET	3763 Howard Hughes Parkway
INTERNAL ADDRESS	Hughes Center, Suite 170-A
*CITY	Las Vegas
*STATE (Required for U.S. applicants)	Nevada

*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	89109
LEGAL ENTITY INFORMATION	
TYPE	CORPORATION
STATE/COUNTRY OF INCORPORATION	Nevada
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	024
*DESCRIPTION	Oven mitt
FILING BASIS	SECTION 1(b)
ATTORNEY INFORMATION	
NAME	Mary L. Shapiro
ATTORNEY DOCKET NUMBER	021466-009600US
FIRM NAME	Townsend and Townsend and Crew LLP
STREET	Two Embarcadero Center, 8th Floor
CITY	San Francisco
STATE	California
COUNTRY	United States
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AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
CORRESPONDENCE INFORMATION	
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PHONE	(415) 576-0200
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EMAIL ADDRESS	mls@townsend.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEES PER CLASS	325
*TOTAL FEE DUE	325
*TOTAL FEE PAID	325
SIGNATURE INFORMATION	
SIGNATURE	NOT PROVIDED
SIGNATORY'S NAME	NOT PROVIDED
SIGNATORY'S POSITION	NOT PROVIDED
DATE SIGNED	NOT PROVIDED

PTO Form 1478 (Rev 9/2006)
OMB No. 0651-0009 (Exp 09/30/2008)

Trademark/Service Mark Application, Principal Register

Serial Number: 77262146
Filing Date: 08/22/2007

To the Commissioner for Trademarks:

MARK: The 'OVE' GLOVE (stylized and/or with design, see mark)

The literal element of the mark consists of The 'OVE' GLOVE.

The applicant is not claiming color as a feature of the mark. The mark consists of a picture of a glove using vertical lines to indicate fingernail location, horizontal lines to indicate finger lenght and palm width and blank space near the bottom containing the words "The 'Ove' Glove.

The applicant, Wind of Trade LLC, a corporation of Nevada, having an address of Hughes Center, Suite 170-A, 3763 Howard Hughes Parkway, Las Vegas, Nevada, United States, 89109, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

International Class 024: Oven mitt

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant hereby appoints Mary L. Shapiro of Townsend and Townsend and Crew LLP, Two Embarcadero Center, 8th Floor, San Francisco, California, United States, 94111-3834 to submit this application on behalf of the applicant. The attorney docket/reference number is 021466-009600US.

Correspondence Information: Mary L. Shapiro

Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
(415) 576-0200(phone)
(415) 576-0300(fax)
mls@townsend.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

RAM Sale Number: 3016
RAM Accounting Date: 08/23/2007

Serial Number: 77262146
Internet Transmission Date: Wed Aug 22 19:04:12 EDT 2007
TEAS Stamp: USPTO/BAS-66.54.196.226-2007082219041271
3572-77262146-380a5a27bde9053ef36ad86ecd
5440c1e2-DA-3016-20070822190056514565

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